

App. No.: 09/380,534
Filed: September 1, 1999

REMARKS

Claims 72-91 are pending in the present application. Claims 72, 79, 82-83 and 86-87 have been amended as discussed during the November 16th interview. Support for the amendments is found, for example, in the specification at page 8, line 33 to page 9, line 1 ("[a]s hereinbefore mentioned, the present invention relates to a method of inducing or sustaining a specific immunological response ... to an antigen in an animal over time."); page 17, lines 29-31 ("[t]hus, the antigen used in the invention is matched to the specific disease found in the animal being treated."); and page 9, lines 23-24 ("[t]he antigen is delivered to the animal so that the antigen is present in the animal's lymphatic system on a sustained basis over a period of time."). Additional support for the amendments is found in the claims as originally filed. Claim 80 has been amended to provide proper antecedent basis for the existing limitation, which antecedent basis was removed by the amendment to Claim 79 that was discussed during the November 16th interview. Therefore, no new matter has been added. Discussion of the amendments to those claims is set forth more fully below.

Rejection under 35 U.S.C. § 112, first paragraph

The USPTO indicated during the November 16th interview that this rejection is withdrawn in view of discussion of this rejection in Applicants' response that was filed on September 30, 2004.

Rejections Under 35 U.S.C. § 102

The rejection of Claims 79-80, 83, 86, 87, and 90 in view of Grohmann *et al.* and the rejection of Claims 72-74, 77-84, 87, and 89-91 in view of Sadao *et al.* were discussed during the November 16th interview.

Applicants have amended independent Claims 72, 79, 82-83 and 87 as agreed during the November 16, 2004 interview. The PTO agreed that the amendments specified in the Interview Summary dated November 16, 2004, which are set forth above, would overcome the § 102 rejections over Grohmann *et al.* and Sadao *et al.* respectively. In particular, Claims 72, 79, 82-83 and 87, which were rejected over Sadao *et al.*, are amended to recite an "antigen-specific" CTL response, thus distinguishing over Sadao *et al.* Also, Claims 79, 83 and 87, which were rejected over Grohmann *et al.*, further are amended as specified in the Interview Summary dated

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November 16, 2004 to recite "delivering the antigen ... on a sustained basis over a period time at a level sufficient to induce and sustain an antigen-specific" CTL response in the mammal, thus distinguishing over Grohmann *et al.*

In view of the agreed-upon amendments, and in accordance with the agreement reached in the November 16, 2004 interview, Applicants respectfully request withdrawal of the instant § 102 rejections.

Rejection Under 35 U.S.C. § 103

All of the rejections under § 103 rely upon the combination of the primary reference, Sadao *et al.*, with various other secondary references. As discussed above in connection with the rejection under 35 U.S.C. § 102(b), Sadao *et al.* alone does not anticipate the claims because Sadao *et al.* does not teach each and every limitation of the independent claims. Also, none of the secondary references alone discloses the deficient elements of the independent claims. Furthermore, the combination of Sadao *et al.* with the secondary references still does not teach or suggest all of the claim limitations. Moreover, for the reasons set forth in Applicants' previous response, there is no motivation to combine the primary reference with the secondary references. Thus, the cited references, alone or combined, do not teach or suggest all the claim limitations. Accordingly, Applicants respectfully submit that a *prima facie* case of obviousness has not been established.

In light of the foregoing, Applicants respectfully submit that Claims 72, 75-77, 83, and 86-88 are not obvious under 35 U.S.C. § 103. Accordingly, Applicants respectfully request that the rejection under this section be withdrawn and that the claims be allowed in accordance with the agreement reached during the November 16, 2004 interview.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action have been addressed and that the application is now in condition for allowance. Accordingly, Applicants request the expeditious allowance of the pending claims.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped

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issues remain or if any issues require clarification, the Examiner is respectfully requested to call the undersigned to discuss such issues.

Please charge any additional fees, including any fee: for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11/24/04

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